

ORDINANCE NO. 15-13AN ORDINANCE AMENDING THE PROVISIONS OF FORT SMITH UNIFIED
DEVELOPMENT ORDINANCE AND FORT SMITH MUNICIPAL CODE REGARDING
OUTDOOR ADVERTISING SIGNS

BE IT ORDAINED AND ENACTED BY THE BOARD OF DIRECTORS OF THE
CITY OF FORT SMITH, ARKANSAS, THAT:

SECTION 1: That portion of the Fort Smith Unified Development Ordinance codified as
Section 27-704-4 of the Fort Smith Municipal Code is hereby amended to read as follows:

27-704-4 Outdoor advertising signs

- (a) Outdoor advertising signs are to be considered as a specific use, rather than an incidental use to an existing land use, in that outdoor advertising signs produce a revenue to the property owner as a land use while the advertising message carried by business signs does not produce a revenue but is incidental to a revenue-producing land use. Because of the special characteristics of outdoor advertising signs as compared with other types of land uses and structures, certain qualifications and requirements are set forth below in connection with outdoor advertising signs as a permitted use.
- (b) Outdoor advertising signs are permitted in all Industrial zones, Commercial-4 zones, Commercial-5 zones, ETJ Industrial Light zones, and ETJ Industrial Moderate zones. They may be permitted in ETJ Open-1 zones by the planning commission's approval of a Conditional Use request.
- (c) No outdoor advertising sign structure of any size shall be permitted to be erected closer than one thousand (1,000) feet from an existing outdoor advertising sign structure which is larger than thirty-five (35) square feet in sign area. No more than four (4) outdoor advertising sign structures (over thirty-five (35) feet in area) per statute mile are permitted. All distances between two sign structures or between any four (4) outdoor advertising sign structures, irrespective of which side of the street one (1) or more of the four (4) structures may be located, shall be measured along a line parallel to the street and from the centers of the closest support poles.

- (d) No outdoor advertising sign shall be permitted to be erected closer than two hundred fifty (250) feet from any residentially zoned or developed property. The distance shall be measured from the property line of the residentially zoned or developed property closest to the subject sign to the center of the nearest support pole of the sign.
- (e) Within six hundred sixty (660) feet of the right-of-way of an interstate highway, no outdoor advertising sign structure designed to be primarily viewed from the roadway of such interstate highway shall be permitted to be erected closer than five hundred (500) feet to any other such sign structure on the same side of the right-of-way, as measured along a line parallel to such highway, and from the centers of the closest support poles.
- (f) No outdoor advertising sign (whether static or digital) shall be permitted to be erected with a sign area in excess of three hundred (300) square feet along non-interstate streets nor to be erected with a sign area in excess of three hundred seventy-eight (378) square feet on interstates. Sign area in excess of three hundred seventy-eight (378) square feet but not to exceed six hundred seventy two (672) square feet along interstates may be allowed by the planning commission's approval of a Conditional Use request so long as an equivalent or greater amount of sign square footage is deleted by the loss of one or more of the applicant's sign credits in the sign bank.
- (g) Outdoor advertising signs may be erected with a static face or with a digital face, provided the sign complies with all provisions applicable to outdoor advertising signs and the following.
 - (1) For permitted structures containing a digital face, only one digital face shall be allowed per facing, and the digital face shall be the only sign allowed on that facing;
 - (2) Electronic message changes must be accomplished within a time interval of two (2) seconds or less;
 - (3) The message or image on a digital face must remain static for a minimum of eight (8) seconds;
 - (4) Digital faces shall contain a default design that will freeze the message in one position if a malfunction occurs;
 - (5) Signs that contain, include, or are illuminated by any flashing, intermittent, or moving light or lights, including animated parts or scrolling messages or images, are prohibited, with the exception of those giving public service information such as time, date, temperature, and weather and/or similar information approved in writing in advance by the City Administrator or the Administrator's designated agent;

- (6) There shall be no appearance of a visual dissolve or fading in which any part of one electronic message/display appears simultaneously with any part of a following electronic message/display;
 - (7) A sign owner may modify existing, legal, conforming structures to a digital face only after filing an application and receiving a permit to do so;
 - (8) Signs containing a digital face shall not be located closer than 1,500 linear feet along interstate highways and 1,000 linear feet along non-interstate state streets to another digital faced sign when measured along the same direction of the traveled way;
 - (9) Digital faces shall comply with all other requirements of federal and state outdoor advertising regulations;
 - (10) Digital faces shall not operate at brightness levels of more than 0.3 foot candles above ambient light, as measured using a foot candle meter. Documentation shall be provided to the City at time of permit issuance certifying the digital billboard has been set to be incapable of exceeding .3 foot candles above ambient light;
 - (11) Each display on a digital face must have a light sensing device that will adjust the brightness as ambient light conditions change;
 - (12) The city planning department shall be provided with an on-call contact person and telephone number for every permitted digital face. In the event of malfunction, the contact person must have the ability and authority to make modifications to the displays and lighting levels. If modifications cannot be made to correct the malfunction within a timely manner, then the digital face must be disabled until the modifications are made. It shall be the responsibility of the permittee to maintain with the planning department accurate and current contact information; and,
 - (13) Failure to adhere to any of these provisions may result in the revocation of the digital face authorization of the permit (following due process including notice to comply).
- (h) V-type outdoor advertising signs are permitted provided the angle of separation of the two sides of the sign is not greater than thirty (30) degrees.
 - (i) No outdoor advertising sign shall be permitted to be erected unless it has a minimum height at the lowest portion of the face surface of the sign of at least thirteen (13) feet and has a maximum height at the tallest point on the face surface of forty-five (45) feet, which minimum and maximum heights are to be measured from the elevation of a perpendicular line from the center/crown of the roadway to which the sign is adjacent.

- (j) No portion of an outdoor advertising sign shall be erected in a public right-of-way.
- (k)(1) Subsequent to the adoption of this Ordinance, no new outdoor advertising sign shall be permitted to be erected within the city limits nor within Fort Smith's extra-territorial planning jurisdiction area except as provided herein. This prohibition against new outdoor advertising signs shall apply even in those areas regulated by the Federal Highway Beautification Act (23 U.S.C. 131) or the Arkansas Highway Beautification Act (Ark. Code Ann. § 27-74-101 et seq.).
- (2) Sign Bank. There is hereby created an outdoor advertising sign credit bank ("Sign Bank") whereby the city planning department shall maintain a credit on file for the replacement of outdoor advertising signs as allowed under subsection (1) above or for the expansion in size of outdoor advertising signs as allowed by (f) above. The purposes of the Sign Bank permitting process are to ensure that the quantity and size of outdoor advertising signs in the City of Fort Smith and its extra-territorial jurisdiction area do not increase and to ensure proper placement of replaced or relocated outdoor advertising signs.
- A. The owners of each outdoor advertising sign existing as of the effective date of these regulations shall be given a credit for the sign and the size of its face(s) within the Sign Bank.
- B. If an existing outdoor advertising sign is removed it is incumbent on the sign owner to inform the city planning department of the removal of the sign in writing within thirty (30) days of the removal in order to avoid action by the city planning department to delete or cancel the subject sign credit.
- C. Prior to the issuance of a building permit for the construction of a new outdoor advertising sign or the relocation of an outdoor advertising sign, the applicant shall submit evidence that an existing sign bank credit belonging to the owner/applicant is assigned to the new or relocated sign.
- D. Prior to the issuance of a building permit for an outdoor advertising sign with expanded size pursuant to (f) above, the applicant shall submit evidence that an existing sign bank credit (or credits if the square footage of an existing sign with a credit is insufficient to provide the expanded size applied for) belonging to the owner/applicant is assigned to the sign to be constructed pursuant to (f).
- E. The owner of an existing outdoor advertising sign credit may transfer and assign the credit to another person or entity by delivering to the city planning department an acknowledged document identifying the transferred sign credit. Partial assignments of a sign credit for the purpose of meeting square footage requirements pursuant to (f) above are not

allowed.

(l) Nonconforming Outdoor Advertising Signs.

- (1) Repairs to a nonconforming outdoor advertising sign that do not exceed 50% of the replacement cost of the sign are permitted.
- (2) All repairs to a nonconforming outdoor advertising sign that exceed 50% of the replacement cost are permitted only if the sign is converted to a monopole structure and only if there is no increase in the size and height of the sign and the sign is located in the proper zoning district for outdoor advertising signs. If the existing sign exceeds the maximum size and height requirements for the sign's location, repairs may be permitted pursuant to this subsection (l)(2) only if the sign is reconstructed to comply with the maximum size and height requirements for the location and the sign is located in the proper zoning district for outdoor advertising signs.
- (3) Converting a nonconforming outdoor advertising sign to digital is permitted only when the converted sign will not increase in size or height, complies with the maximum size and height requirements for the specific location, the sign is in a proper zoning district for outdoor advertising signs, the sign is a proper distance from residentially zoned or developed property and the sign complies with all specific requirements for digital signs.
- (4) In the event of a storm, fire or other loss to a nonconforming outdoor advertising sign, reconstruction or digital conversion of the nonconforming sign which cannot comply with all of the provisions of those regulations shall not be permitted unless a Conditional Use request is approved by the planning commission and reconstruction or digital conversion is completed within one (1) year from the date of the loss.

- (m) All outdoor advertising signs shall comply with subsections (a), (b), (i) and (j) of the general regulations set forth in Fort Smith Code Section 27-704-5.

SECTION 2: The moratorium imposed by Ordinance No. 98-12 shall expire on the effective date of this Ordinance.

SECTION 3: The provisions of this ordinance are hereby declared to be severable and if any section, phrase, provision, or application shall be declared or held invalid, such invalidity shall not affect the remainder of the sections, phrases, provisions or applications.

SECTION 4: Emergency Clause. It is determined by the board of directors that an emergency exists by reason of the necessity of regulations of outdoor advertising signs supplemental to the city's regulations which existed prior to this date. Therefore, the provisions of this ordinance being necessary to preserve the health, safety and welfare of the inhabitants of the city and the city's extra-territorial planning jurisdiction area, this ordinance shall be in full force and effect from its adoption.

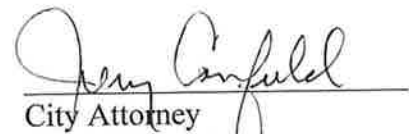
This Ordinance adopted this 27th day of March, 2013.


Mayor

ATTEST:


City Clerk

Approved as to form:


City Attorney
Publish One Time